

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2009-311-C

IN RE: Genesis Telecommunications,)	UNITED TELEPHONE COMPANY OF THE CAROLINAS, LLC d/b/a CENTURYLINK'S RESPONSE TO GENESIS TELECOMMUNICATIONS, LLC'S PETITION FOR REHEARING OR RECONSIDERATION
LLC, Complainant/Petitioner v. United)	
Telephone of the Carolinas d/b/a)	
CenturyLink, Defendant/Respondent)	
)	
)	

United Telephone Company of the Carolinas, LLC d/b/a CenturyLink ("CenturyLink") files this response to the Petition for Rehearing or Reconsideration of Order No. 2010-542 ("Order") filed by Genesis Telecommunications, LLC ("Genesis") on August 27, 2010.

INTRODUCTION

CenturyLink agrees with Genesis that the standard for rehearing or reconsideration is whether the Petitioner has identified facts or law that have been overlooked or misapprehended by the Commission. (Genesis Petition at page 1). However, in its Petition Genesis wholly fails to identify any such facts or law but merely rehashes its prior arguments that have already been rejected by the Commission. The Commission correctly considered all of the evidence presented and the applicable law in finding that Genesis should pay CenturyLink for the DS1 loops provided to Genesis in accordance with the terms of the interconnection agreement between the parties. Therefore, the Commission should reject Genesis's Petition for Rehearing or Reconsideration and affirm its Order No. 2010-542.

DISCUSSION

Genesis's Petition rests on its assertion that the contract is clear on its face that CenturyLink is not providing DS1 service as defined in the contract or that if the contract is not

clear it should be construed against the drafter, which it asserts was not Genesis.¹ (Genesis Petition at page 2) These are the very same points that Genesis made originally but which the Commission rejected. (Order at pages 6-7) As the Commission found, the agreement was intended to be implemented in accordance with federal regulations and industry standards and CenturyLink is providing DS1 service in accordance with these regulations and standards. (Order at page 11)

Genesis asserts that the Commission improperly substituted “bits” for “bytes” in the definition of DS1. (Genesis Petition at page 2) Again, Genesis identifies no point of fact or law that the Commission overlooked or misapprehended in its findings, instead repeating its previous arguments that the Commission considered and rejected. (Order at page 9) Genesis acknowledges that the use of the term “megabyte” in the interconnection agreement comes directly from the FCC’s TRO Order but attempts to trivialize the TRO’s use of the term Mbps or “Megabits” in its discussion of the technical specifications for DS1s. (Genesis Petition at pages 2-3). Genesis’s characterization of this discussion as insignificant is disingenuous, at best. While there are indeed over two thousand footnotes in the TRO, the relevant one to this proceeding referencing the speed of DS1s is contained in the specific portion of the order that addresses unbundled loops, including DS1 loops.² In addition, there is nothing anywhere in the body of the TRO itself that uses the terms “megabyte” to describe the speed of DS1 service. It is exactly this discrepancy between the use of “megabyte” in the rule (which Genesis acknowledges) and the use of “Mbps” or “Megabits” in the TRO Order itself (which Genesis would have the

¹ Genesis admits that no specific evidence regarding who drafted the underlying agreement was submitted, but declares without elaboration that none is needed. It is the CLEC’s option whether to adopt an existing agreement between the ILEC and another CLEC under 47 U.S.C. §252(i).

² The FCC’s Triennial Review Order or TRO, 18 FCC Rcd 16978 (2003), is extremely voluminous and addresses unbundling requirements for a number of network elements in response to judicial remand requirements and the status of telecommunications competition (see ¶ 3).

Commission ignore), that led to the Commission's finding that the use of the term "byte" was either an error or intended to be used interchangeably with "bit." (Order at page 9, par. 7)

Genesis never disputes the correctness of the Commission's finding that 1.544 Megabits is the industry standard speed for DS1s. (Order at page 11) Rather, Genesis merely uses semantics to argue that the parties intended DS1 loops to be something different under the agreement. (Genesis Petition at page 2) Again, the Commission specifically considered and rejected this argument in reaching its conclusion that CenturyLink's provision of DS1 loops in accordance with these industry standards complied with the requirements of the interconnection agreement. (Order at page 12) Genesis identifies no evidence that the Commission overlooked or misapprehended that would have allowed it to reach a different conclusion. Genesis also contends that the evidence does not demonstrate that the industry standards produced by CenturyLink are applicable to the DS1s provided by CenturyLink. (Genesis Petition at page 3) Again, this argument does not identify any point of fact or law overlooked by the Commission, which considered the positions and evidence offered by the parties and concluded that CenturyLink provides DS1 loops in accordance with industry standards and practice.³ (Order page 12)

CONCLUSION

In its Petition for Rehearing, Genesis has identified no point of fact or law that the Commission overlooked or misapprehended in rendering its decision. Rather, Genesis's Petition merely restates and reargues points that were specifically considered and rejected by the Commission. The Commission correctly found that CenturyLink has provided DS1 loops to

³ While the Order does not specifically rely on the Late-filed Hearing Exhibit in its findings or conclusions, Genesis is incorrect in stating that CenturyLink did not explain the connection of this document to the standards attached to Mr. Showers' testimony. See, footnote 22 of CenturyLink's Post-hearing Brief.

Genesis in accordance with federal regulations, industry standards and the parties' interconnection agreement. On this basis, the Commission ordered Genesis to pay CenturyLink for these DS1 loops in accordance with the interconnection agreement. Because Genesis has identified no basis for the Commission to rehear or reconsider its Order, Genesis's Petition should be denied and the Commission's Order should be affirmed in every respect.

Respectfully submitted this 7th day of September 2010.

A handwritten signature in blue ink, appearing to read "Scott Elliott", is written over a horizontal line.

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